

EIS normally will be required in connection with Borrower proposals for construction and operation of the following types of facilities:

(1) New electric generating facilities of 40 MW or more (nameplate rating) other than diesel generators or combustion turbines. All new associated facilities and electric power lines related to the generating proposal shall be covered in the EIS.

(2) A new mining operation when the Borrower or Borrowers have effective control (*e.g.*, dedicated mine or purchase of a substantial portion of the mining equipment).

(b) Proposals of this type are subject to the requirements of §§1794.50 to 1794.55.

§ 1794.33 Proposals normally requiring an Environmental Assessment without scoping.

(a) RUS will normally prepare an EA for all proposals which are neither categorical exclusions (§1794.31) nor are proposals normally requiring an EIS (§1794.32). For certain actions within this class, scoping and document procedures set forth in §§1794.50 to 1794.53 shall be followed (see §1794.34). The following are examples of specific Borrower proposals which normally require an EA without scoping.

(1) Construction of combustion turbine and diesel generating facilities of less than 40 MW (nameplate rating), except for diesel generating facilities of less than 3 MW (nameplate rating) at an existing generating site. All new associated facilities and electric power lines related to the subject generating proposal shall be covered in the EA.

(2) Construction of any other type of new electric generating facilities of less than 5 MW (nameplate rating). All new associated facilities and electric power lines related to the subject generating proposal shall be covered in the EA.

(3) Modification of an existing hydroelectric project or dam if:

(i) The project or dam will have a total installed capacity of more than 1.5 MW (nameplate rating); or

(ii) The modification will result in a change in the normal maximum surface area or normal maximum surface elevation of an existing impoundment.

All new associated facilities and electric power lines related to the generating proposal shall be covered in the EA.

(4) The expansion of a mining or drilling operation or a new drilling operation.

(5) Purchase of existing facilities or a portion thereof which are presently in violation of Federal, state or local environmental laws or regulations.

(6) The construction of electric power lines and related facilities designed for or capable of operation at a nominal voltage of 230 kV or more (low side) not covered by §1794.31 (categorical exclusions) or §1794.34 (normally requiring an EA with scoping).

(7) The construction of electric power lines and related facilities designed for or capable of operation at a nominal voltage of 69 kV or more (low side) but less than 230 kV (low side) where:

(i) More than 40 kilometers (24.85 miles) of power line are involved or

(ii) Substations and switching stations require new physical disturbance of fencing of more than 2 hectares (4.94 acres) at any single site or more than 4 hectares (9.88 acres) for all sites.

(8) Proposals designed to reduce the amount of pollutants released into the environment which may have other environmental impacts outside of the existing facility site.

(9) Issuance of RUS regulations concerning environmental matters or substantial facility design, construction or maintenance practices.

(b) Proposals of this type are subject to the requirements of §§1794.60 to 1794.64.

§ 1794.34 Proposals normally requiring an Environmental Assessment with scoping.

(a) There are certain actions which require the use of a scoping procedure in the development of an EA. After the scoping process is completed and an acceptable Environmental Analysis has been submitted by the Borrower, RUS will determine whether to prepare an EIS or finding of no significant impact (FONSI). The types of proposals falling within this category are:

(1) The construction of electric power lines and related facilities designed for or capable of operation at a nominal

voltage of 230 kV or more (low side) where:

(i) More than 40 kilometers (24.85 miles) of power line are involved; or

(ii) Substations and switching stations require new physical disturbance or fencing involving a total of more than 2 hectares (4.94 acres) at any single site or more than 8 hectares (19.77 acres) for all sites.

(2) Construction of combustion turbines and diesel generators of 40 MW (nameplate rating) or more; and the construction of any other type of electric generating facilities of 5 or more MW but less than 40 MW (nameplate rating). All new associated facilities and electric power lines related to the subject generating project shall be covered in any EA or EIS prepared.

(b) Proposals of this type are subject to the requirements of §§ 1794.70 to 1794.73.

§ 1794.35 Work plan proposals.

Borrowers frequently request financing assistance for a number of relatively minor unrelated projects all of which are described in a single “work plan.” In determining the proper environmental classification of construction projects contained in a work plan, RUS will consider as a single proposal all related construction included in the work plan and any additional construction related thereto which, although not included in the work plan, is reasonably foreseeable.

Subpart E—Procedure for Categorical Exclusions

§ 1794.40 General.

The following procedure, which applies to action classified as categorical exclusions in § 1794.31 hereof, provides RUS with information necessary to determine if the proposed action meets the criteria for a categorical exclusion. Where, because of extraordinary circumstances, an action may have a significant effect on the quality of the human environment, RUS may require additional environmental documentation.

§ 1794.41 Proposals with no BER.

Normally the Borrower shall not submit a BER for proposals included in

§ 1794.31(b). However, if so noted in § 1794.31(b) the Borrower shall submit a description of the proposal. Such description shall include, where applicable, a plan for erosion and sedimentation control. No public notice is required unless the proposal is located in and may affect wetlands or floodplains.

§ 1794.42 BER proposals.

For proposals included in § 1794.31(c) the Borrower normally shall submit a BER or its equivalent which will assist RUS in identifying extraordinary circumstances in which a normally excluded action may have a significant environmental effect. No public notice is required unless the proposal is located in and may affect wetlands or floodplains. RUS shall not permit construction or other activities which would have an environmental effect until it has received, reviewed and accepted an adequate BER.

Subpart F—Procedure for Proposals Normally Requiring an EIS

§ 1794.50 Normal sequence.

Appendix A to part 1794 (Procedure for Proposals which Normally Require an EIS) describes the normal sequence of EIS preparation to be employed by RUS. For proposals normally requiring an EA with scoping (see § 1794.34), the NEPA process shall proceed in the same manner as for proposals normally requiring an EIS through the point at which the Environmental Analysis is submitted (see § 1794.53). After the Environmental Analysis has been submitted, RUS shall make a judgment to prepare either an EIS or a finding of no significant impact (FONSI).

§ 1794.51 Preparation for scoping.

(a) RUS has developed a general approach to the NEPA process, including scoping, for proposals normally requiring an EIS (§ 1794.32) and for proposals normally requiring an EA with scoping (§ 1794.34). Scoping procedures are designed to determine the scope of issues to be addressed and to identify significant issues related to a proposed action. RUS may require scoping procedures to be followed for other proposals where appropriate to achieve the purposes of NEPA.